IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 9782 of 2007(M)

PETITIONER:
----

1. **CHINNAMMA SIMON, W/O.LATE MATHAI SIMON, MELEKIZHAKKETHIL MULLASSERIL HOUSE, NARANGANAM POST AND VILLAGE, KOZHENCHERRY TALUK, PATHANAMTHITTA DISTRICT.**

2. **SURESH SIMON, S/O.LATE MATHAI SIMON, MELEKIZHAKKETHIL MULLASSERIL HOUSE, NARANGANAM POST AND VILLAGE, KOZHENCHERRY TALUK, PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.LIJU.V.STEPHEN
SMT.INDU SUSAN JACOB

RESPONDENTS:
----

1. **ADDITIONAL SALES TAX OFFICER, CHENGANNUR.**

2. **THE APPELLATE ASSISTANT COMMISSIONER, DEPARTMENT OF COMMERCIAL TAXES, ALAPPUZHA.**

3. **THE DISTRICT COLLECTOR, PATHANAMTHITTA.**

4. **THE TAHSILDAR (RR), KOZHENCHERRY TALUK AT PATHANAMTHITTA, PATHANAMTHITTA P.O.**

5. **THE VILLAGE OFFICER, NARANGANAM VILLAGE OFFICE, NARANGANAM P.O., KOZHENCHERRY TALUK.**

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR,J.

WP(C)NO.9782 OF 2007-M

Judgment

The petitioners have approached this Court, challenging Exts.P2 and P3 revenue recovery notices, proposing to recover sales tax arrears of late Mathai Simon. He was an assessee under the KGST Act. The first petitioner is his wife and the second petitioner, his son. He gifted some properties to them on 19.03.1990. According to the petitioners, the said gift was made before the said Mathai Simon became a defaulter and therefore, no recovery can be made against the gifted property. They have also obtained a decree to that effect, which is produced as Ext.P11. But, in violation of the said decree, now, recovery steps are being taken, it is submitted. If that be so, the remedy of the petitioners is to file an execution petition before the concerned Civil Court. Subject to that right and without prejudice to the contentions of the petitioners, the Writ Petition is closed.

22.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

sta